

Queensland



Subordinate Legislation 1999 No. 134

Appeal Costs Fund Act 1973

APPEAL COSTS FUND REGULATION 1999

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Appeal Costs Fund Regulation 1999*.

Commencement

2. This regulation commences on 1 July 1999.

Definitions

3. In this regulation—

“**approved form**” means a form approved by the chief executive under section 13.

“**minor claim**” means a claim for an amount, including interest, of not more than \$7 500, whether as a balance or after an admitted set off, reduction by any amount paid by or credited to the defendant, abandonment of any excess, or otherwise.

“**minor debt claim**” means a minor claim in which the plaintiff—

- (a) claims to recover against a defendant a debt or liquidated demand in money, with or without interest; and
- (b) elects in the claim to have it heard and decided in a Magistrates Court under the simplified procedures in the *Uniform Civil Procedure Rules 1999*.

PART 2—ADDITIONAL FEES ON DOCUMENTS

Additional fees on documents commencing legal proceedings

4.(1) The additional fees payable under section 10 of the Act are in schedule 1.

(2) However, no additional fee is payable on the issue of a minor debt claim.

PART 3—CLAIMS UNDER INDEMNITY CERTIFICATES

How to claim payment out of the fund under an indemnity certificate

5. To claim payment out of the fund under an indemnity certificate issued by a court, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) the indemnity certificate;
 - (ii) a copy of any court order relied on;
 - (iii) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
 - (iv) an itemised bill of costs for any other costs claimed;
 - (v) for an indemnity certificate under section 15 of the Act—a copy of a receipt, or other documents, evidencing any payment of costs, by or on behalf of the respondent, relied on;
 - (vi) if payment of an appellant's costs is claimed under section 16(2) of the Act—sworn evidence of the respondent's failure to pay the appellant's costs;
 - (vii) sworn evidence of any other facts relied on.

PART 4—CLAIMS UNDER THE ACT, SECTION 22 or 23

How to claim payment out of the fund under the Act, s 22

6. To claim payment from the fund under section 22¹ of the Act, a claimant must—

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) a copy of any order or transcript evidencing a fact mentioned in section 22(1)(a) of the Act;
 - (ii) a copy of any order, for a new trial, mentioned in section 22(1)(b) of the Act;
 - (iii) if the order does not show it was made on an appeal on a question of law—a copy of any transcript showing that fact;
 - (iv) any certificate granted under section 22(1)(c) of the Act;
 - (v) an itemised bill of costs for all costs relating to the claimant of the original trial and of the new trial, that identifies each cost of the original trial thrown away or partly thrown away;
 - (vi) a copy of any order to pay additional costs of a new trial;
 - (vii) a copy of a receipt, or other documents, relied on to show the payment of any additional costs of a new trial;
 - (viii) sworn evidence of any other facts relied on.

How to claim payment out of the fund under the Act, s 23

7. To claim payment from the fund under section 23² of the Act, a claimant must—

¹ The Act, section 22 (Abortive proceedings and new trials after proceedings discontinued)

² The Act, section 23 (Entitlement on order for new trial on certain grounds)

- (a) apply, in the approved form, to the board for a certificate authorising payment out of the fund of the amount claimed; and
- (b) lodge the following documents with the application—
 - (i) a copy of the order for a new trial;
 - (ii) if the order does not show the grounds for the order and the claim relates to costs mentioned in section 23(1) of the Act—a copy of any transcript showing the grounds;
 - (iii) a copy of any order, for costs, mentioned in section 23(1)(a) of the Act;
 - (iv) any order of the registrar stating the amount at which a costs statement has been assessed, for part or all of the costs claimed;
 - (v) an itemised bill of costs for all other costs claimed;
 - (vi) a copy of a receipt, or other documents, relied on to show the payment of any costs by or on behalf of the respondent;
 - (vii) sworn evidence of any other facts relied on.

PART 5—PROVISIONS ABOUT THE BOARD

Board may require additional evidence from claimant

8. The board may require a person claiming payment out of the fund to give the board any additional evidence it considers reasonably necessary to decide the claim.

Certificates of the board

- 9.** A certificate of the board under section 14³ of the Act must—
- (a) be in the approved form; and

³ The Act, section 14 (Payments out of Fund)

- (b) state the amount the person named in the certificate is entitled to be paid from the fund; and
- (c) state whether the payment is to be made to the person or the person's solicitor;⁴ and
- (d) authorise payment of the amount out of the fund; and
- (e) be signed by the chairperson of the board or by a board member authorised by the board to sign certificates issued under section 14 of the Act.

Duties of secretary

10. The duties of the secretary of the board (the “**secretary**”) include—

- (a) keeping a register of all applications made to the board for payment out of the fund; and
- (b) keeping minutes of meetings of the board; and
- (c) ensuring that accounts about claims on the fund are prepared as directed by the board; and
- (d) conducting correspondence and other business as directed by the board.

Registrars to produce documents to board on request

11.(1) For the purposes of the Act, the board may request a court's registrar to produce, or send, to the board a stated file or document.

(2) The request must be signed by the secretary, or someone else authorised by the board to make a request under this section.

(3) The registrar must comply with the request (subject to any present need of the court for the file or document first being satisfied).

(4) The board must return the file or document to the registrar when the board is finished with it.

⁴ See the Act, section 25 (Payment to solicitor).

(5) In this section—
“**registrar**” includes the clerk of a Magistrates Court.

Fees payable to board members

12.(1) The fees payable to members of the board are in the schedule 2.

(2) However, a board member who is a public service officer is not entitled to a fee unless the meeting is held in exceptional circumstances and entirely outside the officer’s normal working hours.

PART 6—MISCELLANEOUS

Approval of forms

13.(1) The chief executive may approve forms for use under the Act.

(2) The prescribed form for a purpose of the Act is the form approved by the chief executive for the purpose.

Prescribed limits on amounts payable

14.(1) For section 16(3)(b) of the Act, the prescribed amount is \$15 000.

(2) For section 18(2) of the Act, the prescribed amount is \$750.

(3) For section 23(2)(c) of the Act, the prescribed amount is \$15 000.

(4) For section 24(2)(c) of the Act, the prescribed amount is \$15 000.

Transitional provision

15. If a claim for payment out of the fund was made and has not been dealt with before the commencement of this section, the claim must be dealt with as if this regulation had not been made.

Repeal

16.(1) The subordinate legislation made under the Act, other than this regulation, is repealed.

(2) This section expires the day after it commences.

SCHEDULE 1**ADDITIONAL FEES ON DOCUMENTS**

section 4

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On the issue of a claim or application or other document commencing a proceeding—	15.50
(a) in the Supreme Court	
(b) in the District Court	11.70
(c) in a Magistrates Court	2.00

SCHEDULE 2**FEES PAYABLE TO BOARD MEMBERS**

section 12

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For attending a meeting of the board—

(a) meeting of 2 hours or less—	
• chairperson	59.00
• other board member	41.00
(b) meeting of over 2 hours but not over 4 hours—	
• chairperson	89.00
• other board member	59.00
(c) meeting of over 4 hours	
• chairperson	119.00
• other board member	79.00

ENDNOTES

1. Made by the Governor in Council on 24 June 1999.
2. Notified in the gazette on 25 June 1999.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.